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Corporate responsibility and the movement of business

Peter Utting

The corporate social responsibility (CSR) agenda has taken off since the 1980s, with both civil society and business actors involved in mobilising around it. This paper examines the reasons for civil society mobilisation on CSR issues, the types of organisations involved, and their different forms of activism and relations with business. It then identifies the ways in which big business is engaging with and shaping the CSR agenda, but questions whether this agenda can effectively contribute to development. The paper argues that the CSR agenda can deal with some of the worst symptoms of maldevelopment, such as poor working conditions, pollution, and poor factory–community relations, but that it does not deal with the key political and economic mechanisms through which transnational companies undermine the development prospects of poor countries. A final section considers how this agenda may evolve on the basis of recent developments in CSR activism and regulation.

Introduction

Terms like ‘corporate social responsibility’ (CSR), ‘corporate citizenship’, and ‘partnership’ have become buzzwords in international development discourse. This reflects the fact that an increasing number of transnational corporations (TNCs) and large domestic companies, supported by business and industry associations, are adopting a variety of so-called voluntary initiatives that aim to improve their social, environmental, and human rights record. Such initiatives include, for example, codes of conduct; measures to improve environmental management systems and occupational health and safety; company ‘triple bottom line’ reporting on financial, social, and environmental aspects; participation in certification and labelling schemes; dialogue with stakeholders and partnerships with NGOs and UN agencies; and increased support for community development projects and programmes.

This paper considers why the CSR agenda has taken off since the 1980s, examining in particular the role of both civil society and business actors in mobilisations concerned with CSR. The title of the paper is meant to convey the idea of a dual movement: big business is (a) being moved by social, political, and market pressures associated with civil society, consumer, and shareholder activism, as well as regulatory threats; and (b) is not simply responding or reacting to pressure but is itself mobilising to influence, control, and lead the agenda of institutional reform. The paper begins by examining the reasons for civil society mobilisation on CSR issues, the types of organisations involved, and their different forms of activism and relations with business. It goes on to identify the ways in which big business is engaging with and

shaping the CSR agenda, and why it has become a proactive player. A final section considers how this agenda may evolve on the basis of recent developments in CSR activism and regulation.

Civil society and CSR activism

The history of progressive institutional change under capitalism suggests that new policies, norms, and regulations often reflect changes in the balance of social forces, activist pressures, and regulatory threats, as well as occasional crisis conditions. The rise of welfare legislation in post-war Europe, for example, occurred in a context where the labour movement and other ideological and political forces associated with social democracy were relatively strong, and big business had been weakened through previous decades of depression and war (Gallin 2000). The adoption of non-binding international standards for TNCs by the ILO and the OECD in the 1970s, and of UN codes of conduct related to specific products in the 1980s, was due largely to influences and pressures associated with civil society activism, regulatory threats for binding international regulation of TNCs, and calls from developing countries and others for a New International Economic Order (Hansen 2002; Richter 2001).

Civil society engagement with CSR issues has expanded considerably since the 1980s, with numerous NGOs and NGO networks, as well as consumer groups and trade unions, mobilising around issues such as child labour, sweatshops, fair trade, the rights of indigenous peoples, toxic chemicals, oil pollution, tropical deforestation, and other forms of environmental degradation. Various factors account for the upsurge in CSR activism and the involvement of NGOs in advocacy, economic, and regulatory activities.

First, the NGO sector was expanding rapidly, gaining legitimacy as a development actor and seeking new areas of engagement. The rise of 'civil regulation',¹ involving myriad forms of confrontation and collaboration between civil society organisations (CSOs) and business, reflected broader changes that were occurring in global governance, where rule making and implementation, and the exercise of power, have become more diffused and multi-layered (Held 2003).

Second, not only 'neo-liberals' but also some activists and NGOs were critical of what—in reality or perception—were the failed attempts by government and international organisations to regulate TNCs. They sought a 'third way' centred on voluntary approaches, collaboration, and partnerships. Changes in tactics and strategies, involving both service delivery and advocacy, also supported this approach. As NGOs were drawn increasingly into service-delivery functions and market relations, an increasing number became part of a growing CSR industry of service providers. The third-way approach was also reinforced by pressures and incentives that encouraged NGOs to move beyond confrontation and criticism, and to propose solutions and engage 'constructively' with mainstream decision-making processes. And in a context where certain regulatory roles of government and trade unions were being constrained by both the ideology and impact of neo-liberalism, and where some forms of regulatory authority were, in effect, being privatised, NGOs assumed regulatory functions by designing and administering new institutions associated, for example, with codes of conduct, certification and labelling schemes, and monitoring and reporting activities.

Third, to traditional concerns about the negative developmental impacts of TNCs were added another set of issues. There was growing recognition that globalisation and economic liberalisation were altering the balance of rights and obligations that structure the behaviour of corporations (Chang 2001). TNCs were enjoying new rights and freedoms as a result of economic liberalisation and globalisation without commensurate obligations and responsibilities, most notably in developing countries. Increasing international trade, foreign direct investment

(FDI), and other financial flows were seen to be benefiting TNCs and finance capital while, in many countries, labour and environmental conditions deteriorated, the number of people living in extreme poverty failed to decline, and inequality increased (UNRISD 1995, 2000). Global awareness of such imbalances and regulatory deficits, and of the need for institutional reform, was reinforced through a series of UN summits and commissions, as well as through the 'anti-globalisation' movement.

Fourth, several environmental and social disasters and injustices, linked to large corporations or specific industries, became high-profile international issues around which activists mobilised. They included, for example, the Union Carbide gas leak in Bhopal, India; the Exxon-Valdez oil spill; Shell's activities in Nigeria and elsewhere; sweatshop conditions in factories supplying Nike and other brand-name companies; tropical deforestation linked to companies like Aracruz, Mitsubishi, and McDonald's; Monsanto's promotion of genetically modified organisms (GMOs) and their impacts on small farmers, food security, and consumer health; child labour in the football industry; fires in Asian toy factories; environmental disasters associated with mining companies; as well as the spread of HIV/AIDS, particularly in migrant-labour systems structured by the mining industry.

As civil society engagement with CSR issues intensified, activism not only expanded but also assumed more diverse forms.² Particularly prominent are the types of activism and relations with big business as described below.³

Watchdog activism, which involves identifying and publicising corporate malpractice by 'naming and shaming' specific companies, is undertaken by organisations including: Corpwatch (USA), Corporate Watch (UK), Greenpeace,⁴ Human Rights Watch, International Baby Food Action Network (IBFAN), Maquila Solidarity Network, Minewatch, Norwatch (Norway), Oilwatch, Pesticide Action Network (PAN), Project Underground, and PR Watch.

Consumer activism and the fair trade movement, which involves efforts to inform consumers about specific products or companies, organise consumer boycotts, and ensure that companies and consumers in the North pay a fair price to small producers in the South, are undertaken by, for example, Consumers International, Equal Exchange, Fairtrade Foundation, Fairtrade Labelling Organisations International (FLO), Infact, Max Havelaar Foundation, Traidcraft Foundation, and Transfair.

Shareholder activism and ethical investment, where CSOs or individuals buy shares in companies and use the format of Annual General Meetings of shareholders to raise complaints and propose changes to corporate policy and practice, is undertaken, for example, by Actares, EIRIS, Ethical Shareholders, Interfaith Center for Corporate Responsibility, Shareholder Action Network, and Social Investment Forum.

Litigation, including what has been called 'transnational litigation' or 'foreign direct liability' (Newell 2001; Ward 2001), is where activists and victims use the courts to prosecute corporate malpractice, as in recent cases involving Shell and Coca-Cola. Organisations involved include the Center for Justice and Accountability, EarthRights International, and the International Labor Rights Fund.

Critical research, public education, and advocacy involves generating and disseminating knowledge on the developmental impact of TNCs, corporate malpractice, and North-South trade and investment relations; and attempting to influence public and academic opinion, as well as policy makers, through campaigns and other strategies. Examples include: Amnesty International, Centre for Research on Multinational Corporations (SOMO—Netherlands), Corporate Europe Observatory, Friends of the Earth, Health Action International, Institute for Policy Studies, International Institute for Sustainable Development, Nautilus, New Economics Foundation, Oxfam International, People-Centered Development Forum, Programa

Laboral de Desarrollo (PLADES—Peru), Third World Network, Transnationale (France), and World Vision.

Collaboration and service provision is where non-profit organisations engage with corporations and business associations to identify, analyse, and disseminate knowledge on ‘good practice’; raise awareness of corporate responsibility issues; engage in ‘partnership’ programmes and projects; provide training and advisory services; promote and design improved standards, as well as socially and environmentally sensitive management and reporting processes; and carry out monitoring and auditing. Examples include: Fair Labor Association, Forest Stewardship Council, Global Reporting Initiative, Institute for Social and Ethical Accounting, International Institute for Environment and Development (IIED), New Academy of Business, Partners in Change (India), and Social Accountability International.

Eclectic activism is where CSOs simultaneously engage in both collaboration and confrontation. This might involve, for example, providing technical assistance to companies, participating in stakeholder negotiations or dialogues, and simultaneously promoting ‘naming and shaming’ actions or demanding legalistic regulation of TNCs. Examples include: Centre for Science and Environment (CSE-India), Clean Clothes Campaign (CCC), IBASE (Brazil), International Federation of Human Rights (FIDH), International Union of Food and Allied Workers (IUF) and other international trade union organisations, Worker Rights Consortium (WRC), and WWF-International.

Business as a movement

History teaches us that progressive social change occurs not only in response to social and political pressures ‘from below’ but is also related to institutional reforms engineered ‘from above’. Indeed, capitalism and its elites have shown a remarkable capacity to accommodate opposition and resistance, and to deal with crisis conditions and contradictions by developing new institutions, and reforming or strengthening existing ones (Utting 2002a).

This brings us to the second dimension of ‘the movement of business’. Big business has proved very capable of organising, networking, and mobilising around CSR issues. An important sector of business is not simply reacting to pressure or engaging in defensive posturing or ‘greenwash’; it is a proactive player that is shaping and disseminating the CSR agenda. It does this through various institutional or organisational forms.

First, a group of high-profile TNCs and large national companies have placed themselves at the forefront of the CSR agenda through sponsorship, PR, advertising, dialogues, networking and participation in partnerships, as well as concrete changes in business policies, management systems and performance. These include, among others, ABB, Backus (Peru), BP, Carrefour (France), Dow Chemicals, Dupont, Eskom and Sasol (South Africa), Ford, IKEA, Levi Strauss, Merck, Migros (Switzerland), Novo Nordisk, Rio Tinto, San Miguel (Philippines), Shell, Suzano and Aracruz (Brazil), Tata Iron and Steel (India), Toyota, and Unilever.

Second, the CSR agenda they promote has been both supported by traditional business and industry associations, such as the International Chamber of Commerce (ICC), the International Employers Organization (IEO), the World Economic Forum, and by chemical, mining, and other sectoral associations. A relatively new set of business-interest NGOs and foundations with close ties to TNCs and corporate philanthropists also actively promotes CSR. They include, for example, the Bill and Melinda Gates Foundation, Business for Social Responsibility (BSR), Business in the Community, CSR Europe, the Global Business Council on HIV and AIDS, Instituto Ethos (Brazil), the International Business Leaders Forum (IBLF), Peru 2021,

Philippines Business for Social Progress, and the World Business Council for Sustainable Development (WBCSD).

Third, the financial services industry, including some banks, investment funds, insurance companies, accountancy and auditing firms, and rating and index agencies, has also become a more proactive CSR player, through the promotion of socially responsible investment, reporting, and certification. Relevant companies include, for example, Calvert, Domini Social Investments, Dow Jones, FTSE Group, KPMG, SGS, and UBS.

Fourth, TNCs, large national companies, industry associations, business-interest NGOs and corporate foundations are entering into a range of collaborative CSR initiatives with NGOs, trade unions, academic centres, governments, the UN, the World Bank and other international organisations. Such collaborative arrangements include, for example:

- the participation of the International Chamber of Commerce (ICC) and various TNCs in the United Nations Global Compact;
- WBCSD's promotion of arm's-length studies of the paper, pulp, and mining sectors;
- Chiquita, Danone, and IKEA's involvement in Global Framework Agreements signed with global union federations (previously called international trade secretariats);⁵
- numerous UN-business partnerships, such as UNDP's activities with Cisco Systems; UNICEF's fundraising efforts with British Airways; WHO's initiatives with pharmaceutical, mining, and food and beverage companies, as well as the Global Alliance for Vaccines and Immunization (GAVI);
- participation of TNCs, for example, BP, Nike, and Novo Nordisk, in recently established 'multi-stakeholder initiatives', which promote standard setting, reporting, monitoring, certification, stakeholder dialogues, and so-called 'best practice' learning.

TNCs and business organisations are also actively lobbying governments and international organisations on CSR issues and participating in global summits and other public policy-making processes and governance structures. A number of large corporations, for example, mobilised to influence the 1992 Earth Summit process, creating in 1990 the Business Council for Sustainable Development. In 1995 this forum was strengthened when it merged with the World Industry Council on Environment to form the WBCSD, whose membership now includes 170 large international companies (Schmidheiny et al. 1997). In the build-up to the 2002 World Summit on Sustainable Development, the WBCSD and the ICC formed Business Action for Sustainable Development which, according to the ICC website, 'creates a network to ensure that the world business community is assigned its proper place at the world summit ...' (www.iccwbo.org).

Understanding the mobilisation of big business

While civil society pressures and influences of the type outlined above have constituted crucial 'drivers' of CSR, there are other reasons behind the engagement of big business with the CSR agenda. The corporate CSR discourse is structured around a series of propositions that tie in with new theories and thinking associated with modernisation, neo-liberalism, global governance, new institutional economics, and business management.

The business case for CSR

An influential body of business and academic opinion emphasises the 'win-win' proposition that good social and environmental performance is also good for profits (Holliday et al. 2002; Porter and van der Linde 1995). Evidence for this aspect of the business case is, in

fact, mixed. Nevertheless, it figures prominently in the discourse of some business leaders and management gurus. Four claims, in particular, are made:

- CSR can enhance a company's competitive advantage;
- some forms of CSR, such as eco-efficiency or recycling, can actually reduce costs;
- CSR is good for staff morale and motivation; and
- CSR is a proxy for competent management and associated qualities related to innovation, the ability to anticipate and deal with risks, and learning and using knowledge effectively.

The role of CSR in risk management is a crucial aspect of the business case. Globalisation and the strengthening of civil society imply new risks for TNCs. It is often said that high-profile brand-name corporations can run but they cannot hide. Instances of malpractice in their supply chains can be detected and publicised internationally. Consumer campaigns and boycotts can harm a company's or product's image, sales, and competitive advantage, particularly in the case of brand-name companies. And in some countries, such as the USA and the UK, TNCs are also becoming more vulnerable to litigation related to social, environmental, and human rights issues. Such risks to profits, market share, and reputation can, to some extent, be managed through CSR. Engaging in CSR through voluntary initiatives can also be a way of diminishing regulatory threats from government.

Structural changes in the way production is organised internationally, notably the growth of 'global value chains' and outsourcing, mean that the business activities and standards which are of concern to CSOs and consumers relate not only to the core enterprises of TNCs but also to other firms involved in their supply chains. TNCs, therefore, need to put in place institutional arrangements to control the activities of the enterprises with which they have contractual relations but which they do not own. Various CSR initiatives, including codes of conduct, monitoring, auditing, certification, and labelling can facilitate such control (Ascoly et al. 2001). Some forms of collaboration between TNCs and CSOs, such as Global Framework Agreements and certain multi-stakeholder initiatives, can provide information and feedback to the corporate 'centre' regarding the activities of both affiliates and suppliers on the corporate 'periphery' (Utting 2000).

The theoretical underpinnings of CSR

The business case for CSR extends beyond the micro level of the firm to the macro level of the capitalist system, which, periodically, is threatened by crisis and instability. As Gramsci noted, the longevity of capitalism has to do with the ability of ruling elites to govern not through force but consensus, exercising moral, cultural, and intellectual leadership, and entering into relations with civil society that cultivate certain values and opinions conducive to stability and the rejection of 'radical' alternatives. Corporate engagement with CSR issues can also be seen in these terms (Levy 1997; Bendell and Murphy 2002). Business elites are not only responding defensively; they are proactively trying to influence, control and lead the agenda of institutional reform and social and economic change (Utting 2002a).

The voluntary approaches that are central to the CSR agenda have a powerful ideological and theoretical grounding. Neo-liberalism, which has guided the process of economic liberalisation since the late 1970s, critiques certain forms of 'command-and-control' regulation and state intervention on the basis that they interfere with both individual freedom and efficiency. In relation to social, labour, and environmental standards, the implication is that private enterprise can, to some extent, regulate itself through 'corporate self-regulation' and voluntary initiatives. And it will do so largely in response to a variety of market and societal signals, and given its innate capacity to innovate.

Stakeholder and governance theory suggests that modern business should no longer be pre-occupied exclusively with the interests of shareholders and relations with the state and trade unions, but must respond to the concerns of multiple stakeholders, including NGOs, consumers, environmentalists, and local communities. According to this perspective, we live in a globalising world that is now more interdependent, complex, and risky. Knowledge and power are dispersed among multiple actors, including CSOs and networks. Such trends and contexts suggest that decision making needs to engage multiple 'stakeholders', actors and interests (Freeman 1984). Corporate responsibility should not be simply a reactive response to confrontational activism and 'command-and-control' regulation. Business can be proactive and work in partnership with CSOs, government, and multilateral institutions.

Furthermore, modern institutions, including corporations, have the capacity to reflect critically on their role and performance, engage in 'organisational' or 'social learning', and reform themselves. In today's world a successful business must be able to adapt to rapidly changing circumstances. Interaction and dialogue with stakeholders constitute crucial mechanisms for learning and adaptation. From the perspective of both good governance and good management, business-NGO collaboration and public-private partnerships (PPPs) are, therefore, important (Zadek 2001). Indeed, there is a strong body of theoretical opinion and historical analysis that suggests that such forms of interaction, based on dialogue and networking, are fundamental for regulatory reform (Braithwaite and Drahos 2000).

These approaches are reinforced by theoretical positions, currently in vogue, that emphasise the role of institutions—or formal and informal 'rules of the game'. Drawing on the writings of Karl Polanyi (1944), various proponents of CSR, voluntary approaches, and partnerships stress the importance of 'embedded liberalism' (Ruggie 2001), the notion that if capitalism and economic liberalisation are to have a human face and deliver socially inclusive development, and if the stability of the system is to be maintained, then markets need to be regulated by institutions that limit the concentration and abuse of economic power. Voluntary initiatives and partnerships are seen as an important element in this broader strategy. New institutional economics (NIE) has revived interest not only in the role of regulatory institutions but also in the role of the firm as an administrative organisation (as opposed to a purely economic actor) that must take steps to reduce both production costs and transaction costs (Toye 1995). Various CSR initiatives that are conducive to stability, predictability, and risk management, and which provide information about suppliers and other stakeholders, are relevant in this regard.

Emerging trends and future challenges

How are these dual CSR 'movements' likely to evolve? Which actors and coalitions will dominate the agenda of regulatory change associated with social and environmental conditions and labour and other human rights? To answer these questions it is important to refer to two recent developments in both civil society and corporate 'activism'. The first involves a degree of convergence of business and civil society approaches to development and regulation, and the strengthening of multi-stakeholder initiatives or 'co-regulation'. The second involves new forms of civil society activism centred on 'corporate accountability'.

Convergence and co-regulation

The emerging forms of NGO-business collaboration referred to above have been consolidated and institutionalised since the turn of the millennium. This is apparent in several respects. First, the trend of NGOs becoming active players in the CSR industry through various forms of service provision and commodified activities has intensified, to such an extent that the

distinctions between civil society and business, NGOs and companies, or 'not for profit' and 'for profit' are becoming increasingly blurred (Deacon 2003; Stubbs 2003). This convergence of functional roles is evident in the case of NGOs and small firms that provide technical assistance, research, auditing, and other CSR services. A more structural shift may also be occurring as some NGOs or activists constitute themselves as companies.⁶

Second, a new set of regulatory institutions has emerged, involving so-called multi-stakeholder initiatives or non-governmental systems of regulation (O'Rourke 2002). As the limits of codes of conduct and other CSR initiatives associated with corporate self-regulation became apparent, some TNCs, large Northern retailers, and CSOs recognised the role that various forms of 'co-regulation' and collaboration could play in ratcheting-up standards, strengthening their implementation, as well as enhancing the credibility of voluntary initiatives. These new institutions also reflect a convergence of views on state-market relations, global governance, and development strategies, which recognise that globalisation and economic liberalisation are here to stay but require new institutions or reforms to deal with the societal and environmental downside.

Co-regulation involves companies and CSOs and/or governmental and international agencies coming together to promote standard setting, monitoring, reporting, auditing, certification, stakeholder dialogues, and 'best practice' learning. Several such initiatives have emerged in recent years. They include, for example, AA1000, the Ethical Trading Initiative (ETI), the Fair Labor Association, the Forest Stewardship Council, the Global Alliance for Workers and Communities the Global Reporting Initiative, the Marine Stewardship Council, the United Nations Global Compact, global framework agreements, and certification schemes such as ISO 14001 and SA8000.

Owing to the recent origin of these initiatives it is difficult to assess their impact. By focusing attention on issues such as labour and other human rights, external monitoring, measurement of social and environmental improvements, and the responsibilities of suppliers, they have attempted to address some of the weaknesses that characterised codes of conduct and company self-regulation related to CSR. Some have also revived the notion that international labour, environmental, and human rights law applies not only to states but also to TNCs, and have opened up new opportunities and channels for exerting influence on companies. As a result, non-governmental systems of regulation and multi-stakeholder initiatives are often seen as innovative institutional arrangements that go some way towards filling the regulatory deficit associated with globalisation (O'Rourke 2002; UNRISD 2004a). There are, however, various concerns with both convergence and some co-regulatory institutions.

Closer relations between NGOs and big business, and the commodification of activism, imply risks associated with so-called 'regulatory capture', 'co-optation', and the dilution of radical or alternative agendas. A growing number of NGOs that form part of the new CSR industry are being drawn into both the financial circuits and corporate culture of TNCs. The distance between this sector of civil society and the corporate world is narrowing not only in terms of its direct relationship but also in relation to perspectives on the market, development, and strategies for reform. The increasing engagement of NGOs in service delivery and 'best practice' learning is sometimes associated with a decline in confrontational activism and advocacy for radical alternatives, as well as with analysis that shuns hard-core criticism and ignores structural issues. An influential discourse has emerged which suggests that confrontation, single-issue activism, and criticism that profiles specific problems rather than solutions is 'ideological' or passé and that NGO collaboration with business and engagement with the market is modern and savvy (SustainAbility 2003). The tensions associated with these trends and perceptions, both in relation to the substance of institutional reform and the forces that drive change, need to be examined carefully. It is important to avoid a situation where the 'modernisation' of

activism homogenises tactical engagement with TNCs and undermines the very forms of activism that were crucial in launching the contemporary CSR agenda in the first place.

Compared to the early experience of CSR, which centred heavily on ‘corporate self-regulation’, convergence and co-regulation have, to some extent, raised the normative bar. Several multi-stakeholder initiatives, however, remain firmly wedded to the idea of voluntary approaches and tend to sideline the role of legalistic forms of regulation. As discussed below, some also ignore fundamental issues regarding the corporate irresponsibility and ways in which TNCs perpetuate underdevelopment through their core business practices and lobbying activities.

Some of the new multi-stakeholder initiatives are—or are perceived to be—excessively ‘close’ to business as a result of funding ties and the degree of corporate influence exerted through governance structures. Certain initiatives have not integrated important stakeholders, such as trade unions, and have failed to engage Southern interests effectively. Important questions arise, therefore, regarding their credibility and legitimacy.

In addition to these governance and political questions, there are also more technical concerns. The early experience with the new set of non-governmental or multi-stakeholder initiatives has highlighted serious questions about the possibility of scaling them up in a meaningful manner. Monitoring, reporting, auditing, and certification procedures can be extremely complex and quite costly, and the methods employed fairly superficial. Some that are more rigorous tend to involve very few companies, and those that involve more companies are often criticised for their inability to significantly improve corporate social and environmental performance (Utting 2002b).

From corporate responsibility to corporate accountability

As some sectors of civil society and business converge, we also see the rekindling of confrontational activism under the banner of ‘anti-’ or ‘alternative globalisation’. This, of course, is an umbrella movement—sometimes called ‘the movement of movements’—encompassing a disparate array of organisations, networks, and movements concerned with social, environmental, and human rights issues, which have emerged or come under the spotlight in the current era of globalisation. A key concern is that globalisation and contemporary patterns of economic development are benefiting large corporations primarily, in particular TNCs and finance capital, and that public policy is both serving corporate interests and being excessively influenced by them. Such concerns have spurred calls for stronger regulation of big business as well as more profound changes to investment, trade, production, and consumption patterns. Some of these demands have been articulated by a subset of the alternative globalisation movement, which has been called the ‘corporate accountability movement’ (Broad and Cavanagh 1999; Newell 2002; Bendell 2004). Organisations and groups associated with this movement are critical of the mainstream CSR agenda for various reasons.

First, CSR allows ample scope for ‘free-riding’ (whereby economic agents benefit from a particular initiative without bearing the costs) and ‘greenwash’ (Greer and Bruno 1996), i.e. the ability of companies, through PR and minimal adjustments to policy and practice, to project an image of reform while changing little, if anything, in terms of actual corporate performance. The capacity of big business to modify its discourse is often considerably greater than its capacity to improve its social and environmental impacts. Many instances have been documented of companies saying one thing and doing another, or adopting but not effectively implementing environmental policies or codes of conduct. Hence corporate responsibility policy and practice is often characterised by piecemeal and fragmented reforms and window dressing. Furthermore, the mainstream discourse on CSR often gives the impression that

the corporate sector in general is seriously engaged. The reality is very different. For example, of the world's 65,000 TNCs, an estimated 4000 companies produce reports dealing with a company's social and/or environmental performance (Holliday et al. 2002), and probably fewer have codes of conduct. While there are nearly one million affiliates of TNCs and several million enterprises that make up TNC supply chains, approximately 50,000 facilities had had their environmental management systems certified under ISO 14001 by the end of 2002. More recently established schemes such as the Global Reporting Initiative, SA8000, and the Fair Labor Association reported 366, 1266, and 353 certified or affiliated companies, respectively, by the end of 2003 (ISO 2003; UNRISD 2004b).

Second, reforms in corporate policies often take place in a context of double standards or counter-trends. These involve, for example, worsening labour standards and conditions in TNC supply chains, which are often associated with outsourcing and labour market liberalisation; and increases in absolute levels of pollution, waste, and use of non-renewable natural resources. They also involve tax avoidance and evasion, and corporate lobbying to resist social and environmental regulation or to promote macro-economic policies that can have regressive social and environmental impacts. Reported examples of the latter include Monsanto's influence on the international debate and policy on GMOs; the tobacco industry's attempt to influence WHO and governments; the resistance of pharmaceutical companies to attempts to promote cheaper generic drugs; the ICC's lobbying against international regulation of TNCs; the efforts of the European oil industry body, Europia, to weaken EU attempts to tighten emission standards for petrol and diesel; and corporate involvement in the Global Climate Coalition's attempts to weaken international regulatory proposals to deal with global warming.

A third major criticism of CSR relates to so-called 'regulatory' or 'institutional capture', i.e. the increasing penetration and influence of large corporations in the public-policy process through PPPs, formal and informal consultation and dialogue, secondment, and other mechanisms. These concerns have arisen, for example, in relation to the UN summits and the recent wave of PPPs, notably those involving UN agencies and TNCs and corporate foundations (Richter 2001). Such partnerships involve a difficult balancing act, which is prone to mishap. Initiatives like the Global Compact, for example, and various forms of corporate collaboration with UNICEF, have provoked reaction from civil society and other quarters because of the involvement of companies like Abbott, Coca-Cola, McDonald's, Nestlé, and Nike that are associated with international concerns about nutritional health and/or labour rights. This reaction is heightened when TNCs and business organisations use their voluntary association with the UN as a tool for resisting attempts by other parts of the UN to consider other regulatory approaches. This happened recently with the attempt of the UN Sub-Commission on the Promotion and Protection of Human Rights to draft a comprehensive set of human rights norms for TNCs and related enterprises, as well as with the WHO's efforts to promote multi-stakeholder approaches to reduce the risks to consumer health associated with some of the products of large food and beverage corporations.

Fourth, the CSR agenda, based as it is largely on voluntary approaches and a critique of government regulation, is often perceived as an alternative to law. A series of recent proposals are attempting to construct a 'post-voluntarist' agenda in which CSR is articulated with (a) complaints procedures associated with a variety of regulatory institutions (Utting 2002b), and (b) 'soft' or 'hard' law, which lays down obligations, international standards, rewards, and penalties in relation to corporate transparency, accountability, and performance (Kammaing and Zia-Zarifi 2000; ICHRP 2001; Ward 2003).

The corporate accountability movement is 'post-voluntarist' in two respects: in the sense that it goes beyond voluntary approaches by demanding a new articulation of voluntary initiatives and law; and in the sense that it recognises that if CSR is to be meaningful it needs to be

articulated with structural change and cannot rely exclusively on individual effort or 'agency'. The CSR agenda needs to address the structural and policy determinants of underdevelopment, and the relationship of TNCs to those determinants.

A significant development has been the increasing number of concrete proposals and campaigns associated with corporate accountability, legalistic approaches, and international oversight. They include the following:

- Friends of the Earth International proposed that the World Summit on Sustainable Development consider a Corporate Accountability Convention that would establish and enforce minimum environmental and social standards, encourage effective reporting, and provide incentives for TNCs taking steps to avoid negative impacts.
- Several trade unions and NGOs in the USA have launched the International Right to Know campaign to demand legislation that would oblige US companies or foreign companies traded on the US stock exchanges to disclose information on the operations of their overseas affiliates and major contractors.
- The International Forum on Globalization has advocated the creation of a UN Organisation for Corporate Accountability that would provide information on corporate practices as a basis for legal actions and consumer boycotts. Christian Aid has proposed the establishment of a Global Regulation Authority that would establish norms for TNC conduct, monitor compliance, and deal with breaches. Others have called for the reactivation of the defunct United Nations Centre on Transnational Corporations, some of whose activities were transferred to UNCTAD a decade ago.
- In 1999, the European Parliament passed a resolution requesting the establishment of an EU corporate code of conduct and an implementation procedure. A large network of trade unions and NGOs that make up the Clean Clothes Campaign have been lobbying for such a mechanism, which would regulate the activities of European TNCs in developing countries.
- In 2003, the United Nations Sub-Commission on the Promotion and Protection of Human Rights adopted the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, which included a provision for monitoring.
- Proposals to extend international legal obligations to TNCs in the field of human rights and to bring corporations under the jurisdiction of the International Criminal Court have been promoted by several NGOs.
- For many years trade unions and others have urged the ILO to strengthen its follow-up activities and procedures for examining disputes related to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. In 2000, the OECD strengthened its Guidelines on Multinational Enterprises and national complaints procedures.
- In 2002, a coalition of CSOs and the financier George Soros launched the Publish What You Pay Campaign, which calls for a regulatory approach to ensure that extractive companies in the oil and mining industries disclose the net amount of payments made to national governments.
- In 2003, the Tax Justice Network was formed to address trends in global taxation that have negative development impacts, notably tax evasion and avoidance through transfer pricing and offshore tax havens, and tax competition between states that reduces their ability to tax the major beneficiaries of globalisation.

The notion of corporate accountability, then, is quite different from CSR in various respects. Rather than placing the emphasis on moral compulsion, by saying TNCs should assume responsibility for their actions, it suggests that they have to answer to their stakeholders and be held to account through some element of punishment or sanction (Newell 2001; Bendell 2004). The rights and freedoms of companies must be balanced not just by responsibilities and voluntary initiatives but also obligations.

While standard-setting and other regulatory action associated with CSR are often undertaken by self-appointed entities whose accountability to external agents may be very limited or non-existent, corporate accountability highlights issues of legitimacy and governance, including the question of who decides and who speaks for whom.

Rather than seeing corporate self-regulation and voluntary approaches as a superior alternative to governmental and international regulation, the corporate accountability agenda suggests a re-articulation of voluntary and legal approaches. And it focuses more attention on complaints procedures or complaints-based systems of regulation that facilitate the task of identifying, investigating, publicising, and seeking redress for specific instances of corporate malpractice, as a complementary approach to regulatory systems that involve broad but relatively superficial systems of reporting, monitoring, auditing, and certification.

Finally, corporate accountability suggests that if CSR is to be meaningful and really work for development, then it is not enough for companies to improve selected aspects of working conditions or environmental management systems and engage in community projects and corporate giving. The corporate responsibility agenda cannot be separated from structural and macro-policy issues, such as perverse patterns of labour market flexibilisation and subcontracting; corporate taxation and pricing practices that have negative developmental impacts; corporate power, size, and competitive advantage over SMEs and infant industries; and the political influence of TNCs and business lobbies.

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Notes

- 1 The term 'civil regulation' suggests a third arena of regulatory action, which is distinguished from 'corporate self-regulation' and legalistic forms of government and international regulation (Murphy and Bendell 1999).
- 2 In practice, many of the organisations mentioned as examples in this section engage simultaneously in several types of activism, combining, for example, watchdog activities with public education and advocacy; or critical research with collaborative forms of dialogue and training.
- 3 This list of CSOs does not include so-called business-interest NGOs that are more directly associated with corporate interests, whether ideologically, financially, or through their governance structures. Nor does it include research and academic organisations associated with institutions of higher education, which may also engage in a range of CSR-related activities. It should also be noted that some organisations that are often associated with NGOs or 'civil society' are, in fact, legally constituted as companies—SustainAbility and Covalence, for example.
- 4 Greenpeace is legally constituted as a company.
- 5 Global Framework Agreements, negotiated between an international trade union organisation and a TNC, establish a set of standards related to labour relations and working conditions that the TNC agrees to implement throughout its global structure.
- 6 Various reasons may account for this, including, for example, involvement in ethical trading activities, the desire to generate profits that can be used partly to support 'good' causes, and the need to acquire legal and financial safeguards associated with limited liability.

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